

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION – DETROIT**

IN THE MATTER OF:

DEQUAN BOTSWANA THOMAS,
Debtor.

Case No. 17-53017-MAR
Honorable MARK A. RANDON
Chapter 13

13022 Foley Street
Detroit, MI 48227
XXX-XX-4591

**MOTION TO VACATE THE AUTOMATIC STAY
AS TO THE WAYNE COUNTY TREASURER**

NOW COMES the Wayne County Treasurer, by and through its counsel, KILPATRICK & ASSOCIATES, P.C., and moves this Court to vacate the Automatic Stay as it relates to Wayne County Treasurer (“Treasurer”), and in support thereof states as follows:

1. On or about September 15, 2017, the Debtor filed a Voluntary Petition for relief under Chapter 13 of Title 11 of the United States Bankruptcy Code.

2. The Wayne County Treasurer is a Creditor in this case; it is the tax collecting governmental unit for Wayne County, Michigan and it is the Treasurer’s duty to collect property taxes which accrue on both real and personal property for the County and various cities within the County.

3. The Treasurer brings this Motion pursuant to 11 U.S.C. § 362(d) and Fed. R. Bankr. P. 4001 and L.B.R. 4001-1 (E.D.M.). This Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 1334 and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G).

4. The estate includes real property located at 14845 St. Marys, Detroit, Michigan ("Property")

5. After the Debtor filed the Bankruptcy case, post-petition taxes to the Treasurer have accrued in the amount of Eight Thousand Eight Hundred Fifty Four

and 63/100 Dollars (\$8,854.63) for the tax years of 2017, 2018 and 2019; the total amount currently due including pre-petition taxes is Ten Thousand Nine Hundred Sixty and 55/100 Dollars (\$10,960.55).

6. The Taxes are secured by a lien on property located at 14845 St. Marys, Detroit, Michigan ("Property").

7. Based upon information and belief, the estimated value of the real property is approximately Forty Six Thousand Eight Hundred and 00/100 Dollars (\$46,800.00).

8. Based upon information and belief, the 14845 St. Marys Property is subject to a mortgage held by Grand River Holding LLC and MJM Restoration LLC.

9. The amount due and owing to the Treasurer accrues interest at the rate of one percent (1%) per month or twelve percent (12%) per annum or more pursuant to MCL §§ 211.59 and 211.78a.

10. The Treasurer's claims are secured by a lien against the Property, which is superior to all other security interest or liens pursuant to MCL § 211.40.

11. Contrary to Debtor's obligations, the Debtor has neglected, failed and refused to pay the post-petition real property taxes.

12. The Debtor's failure to pay real property taxes as same become due and owing constitutes "cause" to vacate the Automatic Stay pursuant to 11 U.S.C. § 362(d)(1).

13. It would be unfair and inequitable for this Court to continue the Stay considering the facts and circumstances of this case.

14. The Wayne County Treasurer sought consent for relief from the Automatic Stay from Debtor's Counsel on October 20, 2020. However, the request was denied.

WHEREFORE, Creditor, the Wayne County Treasurer, prays that this Honorable Court vacate the Automatic Stay, allowing the Treasurer to pursue remedies of collection pursuant to applicable state law and grant such other and further relief as this Court deems just and equitable.

Respectfully Submitted,

KILPATRICK & ASSOCIATES, P.C.
Attorney for Creditor, Wayne County Treasurer

/S/RICHARDO I. KILPATRICK

RICHARDO I. KILPATRICK (P35275)
615 Griswold, Suite 1305
Detroit, MI 48226
(248) 377-0700
ecf@kaalaw.com

Dated: October 21, 2020

UNITED STATES BANKRUPTCY COURT
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**ORDER VACATING THE AUTOMATIC STAY
AS TO THE WAYNE COUNTY TREASURER**

This matter having come before the Court on the Wayne County Treasurer’s (“Treasurer”) Motion to Vacate the Automatic Stay; all parties in interest having been served a copy of said Motion, proposed Order Vacating the Automatic Stay, Brief in Support, Notice of the Motion and a Proof of Service; No objections having been filed and if filed having been resolved or overruled; said Creditor having a validly perfected security interest in the premises located at 14845 St. Marys, Detroit, Michigan (“Property”) pursuant to State law and a claim for unpaid real property taxes in the amount of Ten Thousand Nine Hundred Sixty and 55/100 Dollars (\$10,960.55) including post-petition claims for 2017, 2018 and 2019 of Eight Thousand Eight Hundred Fifty Four and 63/100 Dollars (\$8,854.63); said property having an estimated value of Forty Six Thousand Eight Hundred and 00/100 Dollars (\$46,800.00) and being subject to a mortgage held by Grand River Holding LLC and MJM Restoration LLC, and the Court being fully advised in the premises:

IT IS ORDERED that the Automatic Stay shall be and is hereby vacated to the Wayne County Treasurer as to the Property, and that the Treasurer can take any and all actions available under applicable state laws to collect its debt(s).

IT IS FURTHER ORDERED that in the event the Treasurer receives proceeds in excess of the amount of the claims due to the Treasurer plus attorney fees and costs, the Treasurer shall turn the surplus over to the Trustee.

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NOTICE OF MOTION TO VACATE THE AUTOMATIC STAY
AS TO THE WAYNE COUNTY TREASURER

The Wayne County Treasurer, has filed a Motion to Vacate the Automatic Stay with the United States Bankruptcy Court, Eastern District of Michigan, Southern Division – Detroit.

A complete copy of the Motion is on file with the Clerk of the Court at the U.S. Bankruptcy Court located at 211 W. Fort St., Ste 2100, Detroit, Michigan 48226.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to vacate the Automatic Stay, or if you want the Court to consider your views on the Motion, then on or before 14 days from date of service, you or your attorney must:

1. File with the Court a written response or an Answer, explaining your position at:

United States Bankruptcy Court,
211 W. Fort St., Ste. 2100,
Detroit, MI 48226.

and United States Bank
226 W. 2nd Street
Flint, MI 48502

If you mail your response or Answer to the Court for filing, you must mail it early enough so the Court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also mail a copy to:

Richardo I. Kilpatrick, Kilpatrick & Associates, P.C., 903 N. Opdyke Road, Suite C, Auburn Hills, Michigan 48326.

Krispen S. Carroll, Chapter 13 Trustee, 719 Griswold Street, 1100 Dime Bldg., Detroit, Michigan 48226;

Dequan Botswana Thomas, Debtor, 13022 Foley Street, Detroit, MI 48227

Marshall D. Schultz, Debtor's Attorney, 29777 Telegraph Road, Suite 2203, Southfield, MI 48034

2. If a response or Answer is timely filed and served, the Clerk of the Court will schedule a Hearing on the Motion and will serve you with notice of the date, time and location of the Hearing.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting that relief.

Respectfully Submitted,
KILPATRICK & ASSOCIATES, P.C.
Attorney for Creditor, Wayne County Treasurer

/S/RICHARDO I. KILPATRICK
RICHARDO I. KILPATRICK (P35275)
615 Griswold, Suite 1305
Detroit, MI 48226
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Dated: October 21, 2020

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PROOF OF SERVICE

KELISHA SMITH states that on the 21st day of October, 2020, she served a copy of the MOTION TO VACATE THE AUTOMATIC STAY AS TO THE WAYNE COUNTY TREASURER, PROPOSED ORDER, NOTICE and this PROOF OF SERVICE upon the following parties with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Krispen S. Carroll notice@det13ksc.com

Marshall D. Schultz marshalld.schultz@gmail.com

Office of the U.S. Trustee via ecf e-mail

And by depositing same in a United States postal box located in Auburn Hills, Michigan, with the lawful amount of postage affixed thereto and addressed to:

Dequan Botswana Thomas Grand River Holding LLC
13022 Foley Street 4815 Sheldon Rd,
Detroit, MI 48227 Rochester, MI 48306

MJM Restoration LLC
32568 Dequindre
Warren, MI 48092

/S/*KELISHA SMITH*

KELISHA SMITH, an employee of
KILPATRICK & ASSOCIATES, P.C.
615 Griswold, Suite 1305
Detroit, MI 48226
(248) 377-0700
ecf@kaalaw.com